

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON NATURAL RESOURCES**

**Call to Order:** By **CHAIRMAN CINDY YOUNKIN**, on January 8, 2001 at 3:00 P.M., in Room 152 Capitol.

#### **ROLL CALL**

**Members Present:**

Rep. Cindy Younkin, Chairman (R)  
Rep. Rick Dale, Vice Chairman (R)  
Rep. Gail Gutsche, Vice Chairman (D)  
Rep. Keith Bales (R)  
Rep. Dee Brown (R)  
Rep. Gilda Clancy (R)  
Rep. Aubyn A. Curtiss (R)  
Rep. Larry Cyr (D)  
Rep. Bill Eggers (D)  
Rep. Ron Erickson (D)  
Rep. Christopher Harris (D)  
Rep. Linda Holden (R)  
Rep. Joan Hurdle (D)  
Rep. Rick Laible (R)  
Rep. Jeff Laszloffy (R)  
Rep. Douglas Mood (R)  
Rep. Bob Story (R)  
Rep. Brett Tramelli (D)  
Rep. David Wanzenried (D)

**Members Excused:** None.

**Members Absent:** Rep. Rod Bitney (R)

**Staff Present:** Holly Jordan, Committee Secretary  
Larry Mitchell, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 44, 1/2/2001; HB 45, 1/2/2001;  
HB 40, 1/2/2001  
Executive Action: HB 44

HEARING ON HB 44

Sponsor: REP. DICK HAINES, HD 63, Missoula

Proponents: Ellen Engstedt, Montana Wood Products Association  
Tim Murphy, Department of Natural Resources and  
Conservation (DNRC)  
Bud Clinch, Director of the Department of Natural  
Resources and Conservation (DNRC)

Opponents: None

Opening Statement by Sponsor:

*{Tape : 1; Side : A; Approx. Time Counter : 1.1}*

REP. DICK HAINES, HD 63, Missoula, stated that HB 44 eliminates the licensing requirements for portable saw mills. The two reasons to do this are the threat of portable saw mills to the landscape are no longer there and other laws adequately cover that threat and there is a \$2.00 licensing fee which does not make it worthwhile to check for a license. Over the last 20 years the department has only issued 9 licenses which equals \$18.00 to the general fund. The law is just not worthwhile.

Proponents' Testimony:

*{Tape : 1; Side : A; Approx. Time Counter : 2.9}*

Bud Clinch, Director of the DNRC, stated that the conditions that exist in the wood products industry are quite different than they were in 1931. Originally this bill was intended as a fire prevention measure and since then other hazard reduction laws have been put in place and therefore the licensing requirements serve no purpose. Mr. Clinch respectfully advocated a do pass on this bill.

Ellen Engstedt, Montana Wood Products Association, stated that the Montana Wood Products Association is in favor of this legislation because it cleans up an obsolete statute. Urges passage of HB 44.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

*{Tape : 1; Side : A; Approx. Time Counter : 5.5}*

**REP. HARRIS** asked **Mr. Clinch** aside from fire issues does the licensing procedure involve any regulation regarding safety? **Mr. Clinch** responded no.

**Closing by Sponsor:**

***{Tape : 1; Side : A; Approx. Time Counter : 6}***

**REP. DICK HAINES, HD 63, Missoula** hoped the committee would see it fit to pass this piece of legislation.

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**HEARING ON HB 45**

**Sponsor:** **REP. JOHN WITT, HD 89, Carter**

**Proponents:** **Rick Knick, Dry Prarie Rural Water**  
**Clint Jacobs, Dry Prarie Rural Water**  
**Steve Wade, Montana Rural Water Systems, DPRW & NCRWS**  
**Bud Clinch, DNRC**  
**Annmarie Robinson, Rocky Boy's/North Central Regional Water System**

**Opponents:** None.

**Opening Statement by Sponsor:**

***{Tape : 1; Side : A; Approx. Time Counter : 6.5}***

**REP. JOHN WITT, HD 89, Carter,** spoke about the two major water projects in North Central Montana being approximately two-hundred million dollars (\$200,000,000) each. Their construction is from now until approximately 2012. It is very important to those communities because of ground water and poor-quality. It is also very important to the economic development of those communities.

**REP. WITT** stated that HB 45 advances the funds to projects funded in part by federal government and is needed to provide clear authority for the DNRC to enter into loans as the project will take several years to construct and congress will appropriate only portions of federal funding for the projects each year.

**REP. WITT** stated HB 45 is critical legislation to the success of the regional water systems in Montana and he asked for support for this bill.

**Proponents' Testimony:**

***{Tape : 1; Side : A; Approx. Time Counter : 10.4}***

**Bud Clinch, DNRC**, stated HB 45 is asking for the authority for the department to lend drinking water in the state revolving fund account on these large construction projects, during these critical periods of time, when these projects that are approved by the federal government and are awaiting those federal appropriations to be transferred through. **Mr. Clinch** asked for a do pass on this bill.

**Rick Knick, Dry Prarie Rural Water**, passed out some literature regarding this project. The literature is as follows: a general document regarding Dry Prarie Rural Water Project **EXHIBIT(nah05a01)** and a Dry Prarie Rural Water Brochure **EXHIBIT(nah05a02)**. **Mr. Knick** brought some tap water samples varying in color from clear to dark brown. HB 45 addresses the state match and lack of federal match.

**Annmari Robinson, Rocky Boy's/North Central Regional Water System**, passed out a document, Fast Facts, Rocky Boy's/North Central Montana Regional Water System **EXHIBIT(nah05a03)**. **Ms. Robinson** showed the committee a map of the project. She stated that her project supports HB 45 as interim financing. Their bill has just gone to congress so they will not be utilizing the monies but they see that it will be needed in the future.

**Steve Wade, Montana Rural Water Systems, DPRW & NCRWS**, urged the committee to support HB 45 stating these projects are going to have a significant economic development impact on these areas of the state as well as provide clean water to the residents therein.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

**{Tape : 1; Side : A; Approx. Time Counter : 19.6}**

**REP. LAIBLE** asked **Mr. Clinch** if this bill needed a fiscal note since the DNRC was front ending projects until federal funding was available. **Mr. Clinch** referred the question to **John Tubbs, DNRC**, went over the fiscal impact to the state stating that the DNRC will lend the money out and it will be repaid under statutory authority. He stated there is a cost but it will be recouped by the borrower. **REP. LAIBLE** readdressed **Mr. Tubbs** asking if he is saying that they are loaning the money out and it is going to be paid for by the local agency when they receive the federal funds. **Mr. Tubbs** responded yes, that's true and the interest rate is 4% and this program is only available for drinking water and waste water programs.

**REP. HARRIS** asked Mr. Tubbs what would happen in the situation where congress has authorized the money but then decides against appropriating the money and the loans have already been made?

**Mr. Tubbs** stated that scenario is the very origin of the bill. He gave an example of that situation. **REP. HARRIS** followed up asking if congress only appropriated a portion of the loan would the State of Montana pick up the tab? **Mr. Tubbs** responded that should it all fall apart the State Revolving Fund (SRF) program would take the hit. He then explained the purpose of the SRF program.

**REP. MOOD** asked **Mr. Tubbs** if they worked with the EPA on these issues. **Mr. Tubbs** stated that yes they did work with the EPA. They don't have a problem matching federal funds with SRF funds as long as their not funneled through EPA.

**REP. ERICKSON** questioned **Mr. Tubbs** regarding the interest that we get from various kinds of uses of the Coal Trust Fund. **Mr. Tubbs** stated that the drinking water SRF program and the waste water SRF program are not coal trust dollars. What they are trying to do here is provide a low cost source of loan funds. **REP.**

**ERICKSON** was looking at HB 40 that's where his question came from.

**REP. HURDLE** asked **Mr. Tubbs** if both of the projects will be completed? **Mr. Tubbs** stated he is very confident that both of the drinking water systems will be built. Congress has authorized the Dry Prarie, Fort Peck system and the bill to authorize the North Central Rocky Boy system is in the Senate offices now, being drafted for this session. Regarding the waste water, if they can use SRF funds to match federal funds then this particular legislation may be a benefit. Follow up by **REP.**

**HURDLE**, will the drinking water systems be completed before the waste water systems are started? **Mr. Tubbs** stated these are two separate things. The big drinking water systems will have their own waste water systems. Follow up by **REP. HURDLE**, describe the kinds of economic development this will make available, who will be the water users? **Mr. Tubbs** said that regarding Dry Prarie, there are forty-five million dollars (\$45,000,000) in construction jobs over a 10 year period. We are hitting Montana where it needs jobs the most (on the reservation) with long-term operational jobs for the citizens of these communities. The clean drinking water in these communities will attract more businesses to re-locate there. The ranchers will benefit as the cows will drink more of the clean drinking water and gain more weight.

**REP. LASZLOFFY** asked **Mr. Tubbs** how these projects have been financed historically. **Mr. Tubbs** responded that the magnitude of these projects (10 years of construction) is new to the department. They do not know what congress will do in the next 10 years and they need this legislation to insure the funds will be there over the next 10 years. Follow up by **REP. LASZLOFFY**, why can't these municipalities form some kind of alliance and go to the private sector so that these dollars are almost guaranteed, why do we need to put public dollars at risk? **Mr. Tubbs** stated the drinking water SRF was set up just for this type of loan and they can bear that risk. The reason the department is giving all this money to them is that it is high cost and they cannot afford it. They are trying to get the best deal possible for the local dollar.

**REP. CURTIS** asked **Mr. Tubbs** if the department has any pie charts available delineating the different allocations for different categories. **Mr. Tubbs** stated that yes they do have the charts and can provide them.

**REP. LASZLOFFY** asked **Mr. Tubbs** if taking this amount of money and setting it aside going to affect the department's ability to fund many smaller projects. **Mr. Tubbs** answered that no he doesn't believe these project dollars will take anything from the smaller projects. If it ever came up that they didn't have the capacity to fund projects they could turn to the advisory committee to make decisions.

**REP. HARRIS** asked **Mr. Tubbs** who will pay the interest back on the loans, the local borrowing agency or the federal government? **Mr. Tubbs** stated that he thinks it would be paid back locally.

**Closing by Sponsor:**

***{Tape : 1; Side : A; Approx. Time Counter : 45}***

**REP. JOHN WITT, HD 89, Carter**, pointed out that a considerable amount of these communities have spent a lot of money now to provide water and service to the communities and because of EPA regulation, etc., they are forced into a situation where they can no longer meet the requirements and have to become a part of the overall regional concept. He spoke of some of the communities that would benefit from these projects. **REP. WITT** hopes for the support of the committee.

**HEARING ON HB 40**

**Sponsor:** **REP. JOHN WITT, HD 89, Carter**

**Proponents:** Rick Knick, Dry Prarie Rural Water  
Clint Jacobs, Dry Prarie Rural Water  
Steve Wade, Montana Rural Water Systema, DPRW & NCRWS  
Annmarie Robinson, Rocky Boy's/North Central Regional  
Water System  
Jim Edgcomb, manager, Treasure State Endowment  
Program

**Opponents:** None

**Opening Statement by Sponsor:**

***{Tape : 1; Side : A; Approx. Time Counter : 48}***

REP. JOHN WITT, HD 89, Carter, summarized HB 40 stating this bill is removing the termination date on the Treasure State Endowment Regional Water System Fund, etc.

**Proponents' Testimony:**

***{Tape : 1; Side : A; Approx. Time Counter : 49.9}***

Jim Edgcomb, manager, Treasure State Endowment Program, stated he is available to answer any questions the committee may have.

Annmarie Robinson, Rocky Boy's/North Central Regional Water System, supports the removal of the sunset. They don't want to get into this and find out in 2013 the state share of the fund has disappeared. This will keep the fund in place for the projects that will take that long period of time.

Rick Knick, Dry Prarie Rural Water, supports the bill and hopes the committee will do so also.

Steve Wade, Montana Rural Water Systema, DPRW & NCRWS, urges the committee to pass HB 40 as it is important to insure that the funds are there to support the two projects that are ongoing and also to have funding available for additional projects that may come to light. It is important to have this fund around for those communities that may be affected by the increasing federal requirements to provide drinking water.

**Opponents' Testimony:** None.

**Questions from Committee Members and Responses:**

***{Tape : 1; Side : A; Approx. Time Counter : 53.8}***

**REP. BROWN** asked **Steve Wade** what percentage of Montana's towns are ok as far as EPA standards go and what percentage are in need of these funds in the future. **Mr. Wade** stated that he does not have those numbers. Follow up by **REP. BROWN**, how many of these projects do you see as far as the rural communities of Montana being shared west to east, is it an eastern issue more than it is in the western regions? **Mr. Wade** was not sure if we would see something west of the mountains as the water is more plentiful there and cleaner, he then directed the question to **John Tubbs**. **Mr. Tubbs** stated that the department expects this to be more of an eastern issue. There are only a few good wells in north eastern Montana. However, he cannot predict what the future is for the western part of the state.

**REP. HARRIS** questioned **Mr. Tubbs** about the bill being an open ended checking account for these projects (Page 4(b)). **Mr. Tubbs** referred the question to **Jim Edgcomb**. **Mr. Edgcomb** spoke about a special revenue account in addition to the account (Page 4(b)). It is not open ended, any interest earnings will have to be appropriated by the legislature.

**REP. MOOD** questioned **Mr. Edgcomb** regarding underlined language in the bill. The staffer, **Larry Mitchell**, explained it. **Mr. Mitchell** stated, when they draft a bill that has a temporary section in it all those sections are downloaded and printed in the bill. The reason is because they need to be repeated in case somewhere along the line someone changes or amends those sections to another piece of legislation. The amendment in this bill happens on page 3. **REP. MOOD** stated to **Mr. Mitchell** that page 2 there appears to be language that does not appear in the 1999 statute. **Mr. Mitchell** stated he would take a look at that.

**REP. ERICKSON** asked about page 2 and 3 and the differences within the bill. *{Tape : 1; Side : B; Approx. Time Counter : 1.5}* **Jim Edgcomb** explained that on page 3, line 8 they are adding back in the Treasure State Endowment Regional Water System Fund so that it doesn't disappear continuously. Then, on lines 26 - 29 there is the leading language that would continue the coal severance taxes going into the fund and as of 2013 there will be no more monies going into the regional water fund. Then on page 4, lines 5 - 10, it again puts the special revenue account from which interest is earned on the fund back in. They're keeping the fund and special revenue fund in place and terminating the coal severance tax funds going into the trust.

**REP. ERICKSON** requested to speak with **Larry Mitchell** after the hearing to get a better understanding of that.



**REP. STORY** asked **Mr. Mitchell** about why (4)(a) is even in the bill because it would not take effect until 2013. **Mr. Mitchell** stated that he is not sure why that is.

**REP. STORY** asked **Jim Edgcomb** will there be no more money from the coal trust fund going into this fund. **Mr. Edgcomb** stated that is true regardless if this bill passes or not. All this bill is doing is keeping the regional water fund in place with the principal that's built up to that point. Follow up by **REP. STORY**, in 2013 what will the principal in this fund be? **Mr. Edgcomb** stated, based on the projections at a 7.25% interest rate, it would be approximately fifty-eight million dollars (\$58,000,000). Follow up by **REP. STORY**, if this bill doesn't pass, in 2013 where will the \$58,000,000 go? **Mr. Edgcomb** assumes that the money would go back into the permanent trust. Follow up by **REP. STORY** in that situation where would the interest from the \$58,000,000 go? **Mr. Edgcomb** stated he was not sure how to answer that.

**REP. BROWN** asked **REP. WITT** how often is it that the legislature asks for a sunset to be removed 12 years prior to the sunset?

**REP. WITT** responds that he doesn't know but often times there is a sunset and they are removed. **Mr. Tubbs** steps up and answers, why 12 years in advance. There's an up-front cash flow problem with these drinking water systems. Once it gets up to \$58,000,000 it will generate a significant amount of revenue. Should congress appropriate significant federal dollars for these projects that require more state match then they currently have built up in revenues off that fund they would issue a general obligation bond to be paid back with the earnings to this point. The department can't promise a revenue source if the fund disappears in 2013. There is a front end need for this legislation so that they maintain the integrity of the purpose of the fund.

**REP. EGGERS** asked **Mr. Tubbs** how they arrived at the \$58,000,000 cap. **Mr. Tubbs** stated that after the session and reading the statutes and the ruling of the Supreme Court, they realized this fund would obliterate in 2013. Follow up by **REP. EGGERS** to **Mr. Tubbs**, are you satisfied that the \$58,000,000 is going to be additive. **Mr. Tubbs** answered that's a question we can wait to answer in 2013. It's just the elimination of the fund itself that presents a problem.

**REP. HARRIS** asked **Mr. Tubbs** about the open ended checking account, if the department can just issue bonds then this sub-fund automatically is obligated to pay those bonds. If HB 14 passes, with funding authority, then there will be the ability

to sell that debt and they would pay it from this fund. The real question will be on HB 14 whether you allow the department to issue that debt.

**REP. STORY** asked **Mr. Tubbs** how the state gets into the bonding business. **Mr. Tubbs** explained HB 14 and the state's debt.

**Closing by Sponsor:**

*{Tape : 1; Side : B; Approx. Time Counter : 17.7}*

**REP. JOHN WITT, HD 89, Carter,** thanked the committee and the proponents of the bill.

**EXECUTIVE ACTION ON HB 44**

**Motion/Vote:** **REP. CURTISS** moved that **HB 44 DO PASS. Motion carried unanimously. 19-0**

**ADJOURNMENT**

Adjournment: 4:20 P.M.

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REP. CINDY YOUNKIN, Chairman

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HOLLY JORDAN, Secretary

CY/HJ

**EXHIBIT** (nah05aad)